

MEMO ENDORSED.

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August 27, 2024

VIA ECF

Hon. Ona T. Wang
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 2550
New York, New York 10007

Re: *Federal Insurance Company v. Nice-Pak Products, Inc. et al.*,
No. 1:23-cv-05512-CM

Dear Judge Wang:

This firm represents plaintiff, Federal Insurance Company (“Federal”) in the above-referenced matter. We send this letter on behalf and with the consent of all parties.

Update About Class-Action Litigation Underlying This Insurance Coverage Lawsuit

This insurance coverage lawsuit is about the existence and scope of the coverage, if any, owed by Federal and Twin City Fire Insurance Company for the underlying third-party class-action litigation *Kurtz v. Kimberly-Clark Corp., et al.*, E.D.N.Y. Case No. 1:14-cv-01142 (the “*Kurtz* Lawsuit”). This coming Friday, August 30, 2024, a final approval hearing will occur for the pending settlement in the *Kurtz* Lawsuit. Records relevant to this insurance coverage lawsuit will continue to be created through final approval of the underlying *Kurtz* Lawsuit settlement, and the amount in dispute in this insurance coverage lawsuit will be largely established once that final approval is granted and any appellate rights have expired.

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Agreed Resolution of Discovery Disputes

On August 26, 2024, the parties met and conferred via teleconference in accordance with your August 26, 2024 Order (Dkt. # 53). During the meeting, the parties were able to resolve their discovery disputes, including agreement on a draft Protective Order for submission to the Court and a schedule for production of documents and other discovery deadlines.

The parties have agreed to begin their respective document productions promptly following entry of a protective order. The parties submit the attached agreed Protective Order (Exhibit A hereto) for the Court's consideration. The proposed Protective Order contains the addendum required by Judge McMahon's Individual Practices and Procedures. Should your Honor prefer that the parties follow the model Stipulation and Proposed Protective Order contained in your Individual Practices in Civil Cases guide, please let us know.

The parties have further agreed that their document productions will be substantially completed within twenty-eight (28) days following the entry of a protective order. The time needed to complete the document productions is due, in part, to the fact that relevant documents continue to be created as the settlement approval process in the underlying *Kurtz* class action is ongoing. As noted above, the final settlement approval hearing in *Kurtz* is set for August 30, 2024.

Requested Amendment of Civil Case Management Plan

Considering that the upcoming final approval process discussed above for the underlying *Kurtz* Lawsuit will largely finalize both the amount in dispute and the body of evidence for this insurance coverage lawsuit, the parties have also agreed and respectfully request that the Court approve amending the Civil Case Management Plan as follows:

1. Following entry of the protective order by the Court, the parties will promptly begin their document productions, with productions substantially complete within 28 days of entry of the protective order or by October 4, 2024, whichever is later.
2. The parties will complete fact depositions by January 31, 2025.
3. The parties will exchange expert disclosures by February 28, 2025.
4. The parties will complete expert depositions by April 15, 2025.
5. The parties will file any motions for summary judgment by May 30, 2025.

We appreciate the Court's consideration in this matter. If Your Honor deems it procedurally preferred or required for the parties to file a separate motion with Judge McMahon to seek entry of either the requested Protective Order or the requested amendment of the Civil Case Management Plan, the parties stand ready to do so. Again, the parties thank you for your time and attention to this matter.

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Respectfully submitted,

/s/ Anthony Michael Tessitore

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*Attorneys for Twin City Fire Insurance
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Application **GRANTED**. The Court hereby
adopts the proposed schedule.

The parties are directed to file a joint
status letter by **Friday, September 6,
2024**, apprising the Court on the status
of the *Kurtz* settlement and discovery.

The Clerk of Court is respectfully
directed to close ECF 58.

SO ORDERED.



Ona T. Wang
U.S.M.J. 8/28/2024